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UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

HP TUNERS, LLC, a Nevada limited liability company,)	CASE NO. 3:18-cv-00527-LRH-WGC
)	
Plaintiff,)	PLAINTIFF’S MOTION FOR
)	PREJUDGMENT WRIT OF
vs.)	ATTACHMENT
)	
KENNETH CANNATA,)	
)	<u>ORAL ARGUMENT REQUESTED</u>
Defendant.)	
)	

Plaintiff HP TUNERS, LLC, a Nevada limited liability company (“HPT” or “Plaintiff”), hereby brings this Motion for a Prejudgment Writ of Attachment against Defendant KENNETH CANNATA (“Defendant” or “Cannata”). This Motion is supported by a declaration of Plaintiff HPT’s counsel, Andrew P. Bleiman, Esq., which sets forth the grounds for attachment and contents required by Nevada law. *See* Declaration of Andrew P. Bleiman, Esq. Pursuant to N.R.S. §31.020 in Support of Plaintiff’s Motion for Prejudgment Writ of Attachment (“Bleiman Declaration”). In

1 support thereof, HPT states as follows:

2 **I. INTRODUCTION**

3 Defendant Cannata is a former member and one of the founders of Plaintiff HPT. On
 4 October 20, 2016, HPT paid Cannata \$6,800,000.00 for his interest in HPT and affiliated pursuant
 5 to a Membership Interest Purchase Agreement (the “Purchase Agreement”). This litigation ensued
 6 because unbeknownst to HPT, both prior and subsequent to execution of the Purchase Agreement,
 7 Cannata wrongfully shared, provided and disseminated highly confidential and proprietary
 8 intellectual property of HPT to a competitor and provided consulting and related services for said
 9 competitor. It was not until August 2018 that Defendant Cannata finally disclosed that he provided
 10 a flash drive storage device containing HPT’s highly confidential and proprietary intellectual
 11 property to a competitor. Had Cannata not willfully concealed his malfeasance, which was already
 12 underway early in 2016, Plaintiff HPT would never have entered the subject Purchase Agreement
 13 or paid Cannata such an exorbitant sum for his interest in HPT. (Dkt. 1, at 1-2).

14 As Plaintiff was pursuing discovery this year, counsel for Defendant Cannata reported to
 15 the Court that Cannata had suffered a medical emergency on March 3, 2020, causing him to be
 16 placed into ICU for several weeks. Subsequently, Defendant Cannata was released home with
 17 full-time nursing care and was “not able to speak and will not be able to participate in discovery
 18 for some time, if at all.” (Dkt. 72). In later reports to the Court, Defendant’s counsel indicated
 19 that Cannata was “somewhat improved ... [but his] communication abilities remain impaired.”
 20 (Dkt. 73).

21 Amidst this dire turn of events regarding Defendant Cannata’s declining health and altered
 22 condition, Plaintiff has reason to believe that he is no longer handling his own finances and affairs.
 23 These extraordinary circumstances have jeopardized the security of the assets held by Cannata and
 24 make it improbable for Plaintiff to reach the Cannata’s property by execution in the event a
 25 judgment is entered. *See* N.R.S. §31.013(3). It is for this reason that Plaintiff HPT seeks a pre-
 26 judgment writ of attachment under Nevada law to protect Defendant’s money and/or property
 27 available to sufficiently satisfy Plaintiff HPT’s claims.

II. RELEVANT BACKGROUND AND FACTS

A. Formation of HP Tuners/Covenants of Members Regarding Intellectual Property

In December 2003, Keith Prociuk (“Prociuk”) and Chris Piasri (“Piasri”) joined with Cannata to form HPT. (Dkt. 1, at ¶13). Each of them contributed intellectual property to start HPT – primarily computer software and hardware used for automotive tuning – and HPT’s Operating Agreement¹ specifically designated these respective “Technology” contributions of Prociuk, Piasri, and Cannata. (Dkt. 1, at ¶¶ 16-28; Dkt. 1-1, at 2-3, 11-12). Each HPT member had a duty to act “for the Company’s benefit” in ensuring the “legal protection for the Technology”, and was broadly required to “assist in every way” in HPT’s protection of its intellectual property rights:

4.1 Intellectual Property. In exchange for his membership interests, each member has contributed and assigned to the Company the intellectual property described on Exhibit A (“Technology”). Each member hereby agrees to assist the Company in any reasonable manner to obtain for the Company’s benefit legal protection for the Technology and will execute, when requested, any lawful documents deemed necessary by the Company to carry out the purposes of the Technology assignment. Each member will further assist the Company in every way to enforce its rights in the Technology, testifying in any suit or proceeding involving any of the Technology or by executing any documents deemed necessary by the Company.

(Dkt. 1-1, at §4.1)

All “Additional Technology” belonged to HPT. This was comprised of improvements and derivative works based on the original contributions of intellectual property. (Dkt. 1-1, at §4.2). HPT’s intellectual property was the most critically important asset of the business, was kept strictly confidential, and was “not available through any public records and information sources.” (Dkt. 1, at ¶¶17-29). It constituted HPT’s “trade secrets” and involved HPT’s expenditure of “substantial time, money and resources to protect its confidential and proprietary information,” and to bar any

¹ HP Tuners LLC Operating Agreement dated March 25, 2004 (Dkt. 1-1).

1 efforts by third parties to “pirate HPT’s products.” (Id. at ¶¶26, 28).

2 **B. Cannata’s Use, Possession, Disclosure and Misappropriation of HP Tuners’**
 3 **Intellectual Property and Prohibited Work With a Direct Competitor in**
 4 **Anticipation, During, and After Negotiating a Buyout of His Membership**
 5 **Interest**

6 By 2015, the relationship between HPT’s three founding members had deteriorated. In
 7 February 2016, Prociuk and Piastri initiated discussions with Defendant about buying him out of
 8 his membership interest in HPT. (Id. at ¶32). Almost immediately thereafter, Cannata secretly went
 9 into business with a direct competitor of HPT called Syked ECU Tuning, Inc. (“Syked”) and,
 10 unbeknownst to HPT, secretly transferred to Syked a flash drive containing HPT’s confidential
 11 and proprietary information. (Id. at ¶¶2, 36-51). Cannata’s furtive transfer included HPT’s “key
 12 generator” (including its algorithm, application, and source code), which was “the single most
 13 valuable piece of intellectual property that HPT possesses.” (Id. at ¶¶43-47). Protecting the
 14 secrecy of the “key generator” was critical because it “is the tool that generates the overwhelming
 15 majority of user licenses [for HPT’s automotive tuning products] and is the security control for
 16 substantially all of HPT’s revenues.” (Id. at ¶48). Cannata followed up his transfer of HPT’s trade
 17 secrets to Syked by then secretly working with Syked and providing services. (Id. at ¶¶2, 51).

18 Unaware of Cannata’s secret double-dealing, Prociuk and Piastri continued to
 19 negotiate with Cannata in good faith from February to October, 2016, to buy him out of HPT. (Id.
 20 at ¶¶ 3, 36, 39, 52-53). At no time during these 9 months did Cannata ever disclose to Prociuk or
 21 Piastri that he had stolen and transferred HPT’s trade secrets to a direct competitor or had been
 22 actively working for Syked. (Id. at ¶¶3, 53-56, 92-101). Instead, Defendant Cannata fraudulently
 23 concealed these facts from HPT up to, and including, their mutual execution of the Purchase
 24 Agreement dated October 20, 2016, pursuant to which Cannata received \$6,460,000.00 from
 25 Prociuk and Piastri for his membership interest in HPT. (Id. at ¶¶ 58-59; Dkt. 1-2). Under the
 26 Purchase Agreement signed by Defendant Cannata, “Proprietary Information” meant “all
 27 confidential and proprietary information of the Company.” (Dkt. 1, at ¶61; Dkt. 1-2, at §1.1).
 Cannata promised to deliver to HPT the software, hardware, firmware, source codes, designs,

1 schematics and other such information in his possession, and also to “destroy any and all copies
 2 of Proprietary Information” in his possession. Specifically, Cannata agreed to cooperate as
 3 follows:

4 6.1 Cooperation Regarding Certain Matters.

5

6 (c) At or prior to the Closing, Seller shall deliver to the Company
 7 each of the following: (i) any and all firmware and software source
 8 code in Seller’s possession relating to the MPVI, (ii) any and all
 9 designs and schematics in Seller’s possession relating to the MPVI,
 10 (iii) any and all hardware programming devices and programming
 11 device software purchased by or otherwise belonging to the
 12 Company; (iv) any and all hardware design, layout and schematic
 13 creation software and license information of the Company, or that
 14 was purchased by the Company, in Seller’s possession; (v) all
 15 Company phones, laptops or other personal devices and any other
 16 Company computer hardware, monitors and other peripherals (it
 17 being agreed that Seller may expunge from any such devices and
 18 equipment all information stored on such devices and equipment).
 Additionally, at or prior to the Closing, Seller shall destroy any and
 all copies of Proprietary Information (whether written or electronic)
 and destroy any and all documents or other media that contain or
 reflect any Intellectual Property or Proprietary Information (or, if
 such other media is an electronic device or hard drive that Seller is
 not required to deliver to the Company, Seller shall permanently
 expunge from such device or hard drive all information containing
 or reflecting any Intellectual Property or Proprietary Information,
 such expungement to the reasonable satisfaction of the Company’s
 outside counsel).

19 (Dkt. 1-2 at §6.1(c)).

20 Defendant Cannata likewise agreed to keep HPT’s “Proprietary Information”, including its
 21 trade secrets, confidential and not to disclose such information to anyone after he left the company.

22 Section 6.3 reads in part:

23 6.3 Confidentiality. From and after the date hereof, *Seller shall ...*
 24 *keep confidential and not disclose*, or otherwise use in any manner,
 25 any information that any of them have relating to: ... *the Proprietary*
Information....”.

26 (Id. at §6.3) (emphasis supplied)

27 Cannata also agreed not to participate in any company that competed with HPT for a period

1 of 18 months after the closing date of the Purchase Agreement, as follows:

2 6.4 Non-Competition and Non-Solicitation.

3 (a) Seller, for himself, and on behalf of each of his Affiliates,
 4 (collectively, the “Restricted Parties,” and each individually, a
 5 “Restricted Party”), acknowledges that he is familiar with the
 6 Intellectual Property and Proprietary Information of the Company.
 7 Seller, for himself and on behalf of each of the other Restricted
 8 Parties, acknowledges and agrees that the Company would be
 9 irreparably damaged if any of the Restricted Parties were to directly
 10 or indirectly compete with the Company or provide services to any
 11 person competing with the Company or engaging in the Business,
 12 and that such direct or indirect competition by any Restricted Party
 13 would harm the Company. In connection therewith, and in further
 14 consideration for Purchaser’s payment of the Purchase Price under
 15 this Agreement (in respect of which payment the Restricted Parties
 16 derive a substantial and direct benefit), and in order to protect the
 17 value of the Company, Seller agrees not to, and Seller shall cause
 18 the other Restricted Parties not to, during the period commencing on
 19 the Closing Date and ending at the conclusion of eighteen (18)
 20 months from the Closing Date (the “Non-Competition Period”),
 21 directly or indirectly, invest in, own, manage, operate, finance,
 22 control, or participate in the ownership, management, operation,
 23 financing, or control of, be employed by, or lend such Restricted
 24 Party’s credit to any business or person that, directly or indirectly,
 25 owns or operates any business that competes with the Business
 26 anywhere in the world....

17 (Id. at §6.4(a)).

18 Defendant Cannata made these explicit promises in late October 2016, all while concealing
 19 that he had already transferred HPT’s intellectual property to and had begun working for Syked,
 20 in direct competition with HPT. (Dkt. 1, at ¶¶3, 66-67, 92-100). Cannata similarly concealed from
 21 HPT that his wife had obtained an ownership interest in Syked within 90 days of the October 20,
 22 2016 Purchase Agreement. (Id. at ¶69). Defendant Cannata’s conduct flagrantly violated his
 23 agreement to keep HPT’s intellectual property secret (Dkt. 1-2, at §§6.1(c), 6.3) and not to work
 24 for a competing firm (Id. at §6.4(a)). (Dkt. 1, at ¶¶ 6-7, 178-181). Cannata’s malfeasance also
 25 breached his fiduciary duty to HPT and has put HPT’s entire business at stake. (Id. at ¶¶2-5, 67,
 26 83-85).

1 C. *Revelations From Cannata's Text Messages with HP Tuners' Direct*
2 *Competitor*

3 HPT also initiated litigation against Syked and its principal, Kevin Sykes-Bonnet (Sykes-
4 Bonnett), which litigation is currently pending.² In connection with discovery in the Syked
5 Litigation, Sykes-Bonnett produced text messages³ between himself and Cannata which detailed
6 Cannata's egregious and wholesale disregard for promises he made in the Purchase Agreement,
7 and for which he received \$6.46 million. Those text messages establish that Defendant Cannata
8 continued to possess, use and disseminate HPT's highly confidential and proprietary information
9 in late 2017 and throughout 2018 (more than a year after consummation of the Purchase Agreement
10 transaction).

11 Specifically, on January 19, 2018, Cannata advised Sykes-Bonnett that the Syked software
12 did not work properly with his own prototype cable but no such issues were present with HPT's
13 VCM Suite software. This indicated that the hardware device Defendant Cannata was developing
14 (the "Eliminator Cable") was compatible with HPT's VCM Suite software, which could only be
15 possible if the Eliminator Cable's communication and security unlock routines were identical to
16 HPT's MPVI1 interface.

17 On March 15, 2018, Cannata told Sykes-Bonnett that he changed some security unlock
18 commands on the Eliminator Cable to be different from HPT's MPVI1 and commented further on
19 functionality that had not been implemented in HPT's VCM Suite. This revealed that Cannata
20 based his Eliminator Cable firmware on HPT's MPVI1.

21 On March 25, 2018, Cannata advised Sykes-Bonnett to release all of HPT's software and
22 professed to be able to do a "special version" of firmware that would doom HPT. Defendant
23 Cannata also commented that Sykes-Bonnett should get Christopher Breton-Jean (an individual
24

25 ² *HP Tuners, LLC v. Kevin Sykes-Bonnett, et al.*, Case No. 3:17-cv-05760 in the United States
26 District Court for the Western District of Washington ("Syked Litigation").

27 ³ The referenced text messages were filed under seal on April 23, 2019 with the Declaration of
Chris Piastrri in Further Support of Plaintiff's Emergency Motion for Temporary Restraining Order
and Preliminary Injunction Against Defendant. (Dkt. 19-1).

1 involved in the subject misconduct and who resides in Canada) under control or the owners of
2 HPT “are in for the fight of their life.” Sykes-Bonnett professed that Mr. Breton-Jean “has a video
3 of my computer getting him a key and says he gave it to HPT . . . and everything else him and I
4 did”. Cannata responded by stating that he “didn’t hack software or firmware but could make it
5 all public. Be very careful [Breton-Jean] and HPT.” Cannata’s apparent threat illustrates that: (a)
6 he still maintained and possessed HPT’s software and firmware source code files in violation of
7 the Purchase Agreement; and (b) his intent to exact revenge on HPT.

8 On April 5, 2018, Cannata plainly admitted that the Eliminator Cable firmware source code
9 is the same as HPT’s MPVI1 firmware source code, and that he had given Sykes-Bonnett and
10 Syked a HPT MPVI1 interface, a controller and other cables. On April 7, 2018, while discussing
11 a protocol issue Sykes-Bonnett was trying to debug on the Eliminator Cable, Cannata admitted
12 that he was using HPT’s MPVI1 for development purposes. On April 13, 2018, Cannata likewise
13 admits to using HPT’s MPVI1 in the course of the Eliminator Cable development.

14 Text messages from May 6, 2018 confirm that Cannata was modifying or cloning HPT’s
15 MPVI1 Interfaces for Sykes-Bonnett and third parties, and Sykes-Bonnett asked Cannata for three
16 (3) MPVI1’s to be cloned to a particular serial number. This is significant because Defendant
17 Cannata could not have cloned or modified the interfaces but for his access to and possession of
18 HPT’s confidential and proprietary intellectual property. Cannata engaged in more text messages
19 that day revealing his improper possession of HPT’s property by discussing his access to HPT files
20 on his home FTP (file transfer protocol) server, including bootloaders and binaries, that were
21 located in a folder named “HPT” and which he was downloading at Sykes-Bonnett’s request. In
22 response, Sykes-Bonnett frantically instructed Cannata to move the HPT files to another folder.
23 The next day, on May 7, 2019, Defendant Cannata went so far as to boldly proclaim to Sykes-
24 Bonnett that he has to use HPT’s code to test the Eliminator Cable because the Syked software
25 was not ready. Several weeks later, on May 31, 2018, Defendant Cannata reminded Sykes-Bonnett
26 that he had given him an HPT MPVI1 which was being used for Syked software development.

27 The Cannata-Sykes-Bonnett text exchange on June 19, 2018 demonstrated their use of

1 HPT's MPVI to develop the Syked software. Defendant Cannata desired for Sykes-Bonnett to
 2 change his code to match HPT's VCM Suite software code because the Eliminator Cable works
 3 just fine with HPT's VCM Suite software. Sykes-Bonnett's commented regarding intricacies of
 4 HPT's VCM Suite software source code, which he only could've known by having possession of
 5 HPT's source code. Thereafter, on June 20, 2018, Cannata explicitly instructed Sykes-Bonnett to
 6 review the HPT documents and source code which Cannata provided as a means to understand
 7 how certain features work.

8 These communications between Defendant Cannata and Sykes-Bonnett establish that not
 9 only did Cannata wrongfully possess, use and disseminate HPT's confidential and proprietary
 10 information in violation of the Purchase Agreement, but that he was directly and indirectly
 11 (through his wife's ownership in Syked) participating in the ownership, management, operation
 12 and control of a competitive business in direct violation of the restrictive covenants set forth in
 13 Section 6.4 of the Purchase Agreement. (Dkt. 1-2, §6.4). Based on the express provisions of the
 14 Purchase Agreement, Cannata should never have had possession of or been in any position to
 15 release HPT's confidential and proprietary information. Nor should he have ever been actively
 16 marketing competitive products for sale (e.g. Syked's software, the Eliminator Cable, tuning
 17 credits, etc.) to unfairly compete with HPT's products and offerings, and which are based on,
 18 derived from and/or incorporate HPT's confidential and proprietary information.

19 **D. Preliminary Injunction Entered Against Defendant Cannata on May 19, 2019**
 20 **(Dkt. 28)**

21 Accordingly, on May 19, 2019, this Court enjoined Defendant Cannata, his agents, and any
 22 persons acting in concert with him (including but not limited to Sykes-Bonnett), from the following
 23 activities:

- 24 (a) Releasing any confidential or proprietary intellectual property belonging to
 25 HP Tuners to the public;
 26
 27

- 1 (b) Releasing or selling any products or services that have been developed using
2 HP Tuners' proprietary code, including "the hardware device developed by
3 [Cannata] in connection with the Syked ECU Tuning, Inc. software solution";
- 4 (c) Releasing or selling any products or software based on or derived from HP
5 Tuners' software or products;
- 6 (d) Developing, planning, designing, researching, or, in any way creating any
7 software or hardware based on or derived from HP Tuners' proprietary
8 intellectual property;
- 9 (e) Destroying, selling, concealing, or modifying any electronic storage devices,
10 including but not limited to USB flash drives, mobile phones, servers, FTP
11 servers, computers, hard drives, and solid-state drives that they have used
12 since January 1, 2016;
- 13 (f) Destroying, concealing, or modifying any communications received from
14 Syked ECU Tuning, Inc., Kevin Sykes-Bonnett, and John Martinson, since
15 January 1, 2016; and,
- 16 (g) Destroying, selling, concealing, or modifying any of HP Tuners' proprietary
17 intellectual property that may be in their possession, including hardware
18 devices and physical documents.
19
- 20 (Dkt. 28, at ¶2).

21 Plaintiff has identified an expert witness to testify in connection with this matter. Plaintiff's
22 expert conducted a forensic examination of certain devices of provided by Cannata. The forensic
23 examination revealed Cannata's possession, use and misappropriation of Plaintiff's intellectual
24 property in violation of the Purchase Agreement. In addition, Plaintiff identified a damages expert,
25 which opined that Cannata has caused Plaintiff to sustain damages in excess of \$15,000,000.
26 Cannata did not identify any expert witnesses prior to the deadline for initial Rule 26 expert
27 disclosures.

1 **E. Defendant Cannata's Incapacitation Following a March 3, 2020 Medical**
 2 **Emergency**

3 As this Court is aware, following the Court's entry of this preliminary injunction, Cannata
 4 suffered a medical emergency on March 3, 2020, which led to his hospitalization in the ICU, and
 5 resulted in communication impairment and full-time nursing care. (Dkts. 72-73). Cannata's health
 6 is in jeopardy and third parties are responsible for handling his affairs. Consequently, Plaintiff has
 7 a legitimate and supportable belief that the custody, control, and disposition of Defendant
 8 Cannata's assets that would be used to satisfy a potential judgment in this case are presently
 9 jeopardized. Because these extraordinary circumstances exist and judgment in favor of Plaintiff is
 10 probable given Plaintiff's likelihood of success on the merits of its claims,⁴ the prejudgment writ
 11 of attachment is warranted under the facts and circumstances of this case.

12 **III. ARGUMENT**

13 **THE COURT SHOULD ISSUE A PREJUDGMENT WRIT OF ATTACHMENT ON**
 14 **CANNATA'S ASSETS TO PRESERVE HIS ABILITY TO SATISFY A JUDGMENT**

15 **A. Legal Standard**

16 Federal Rule of Civil Procedure 64 provides that local state law governs the availability
 17 and procedure for issuing writs of attachment. *See* Fed. R. Civ. P. 64. *See also* *Granny Goose*
 18 *Foods, Inc. v. Brotherhood of Teamsters and Auto Truck Drivers Local No. 70 of Alameda County*,
 19 415 U.S. 423, 436 n.10, 94 S. Ct. 1113 (1974) (stating that "long-settled federal law provid[es]
 20 that in all cases in federal court ... state law is incorporated to determine the availability of
 21 prejudgment remedies for the seizure of person or property to secure satisfaction of the judgment

22 ⁴ Plaintiff HPT has valid claims for relief against Defendant Cannata including causes of action
 23 for: (i) breach of fiduciary duty; (ii) fraud; (iii) violation of the Computer Fraud and Abuse Act,
 24 18 U.S.C. §1030; (iv) violation of the Defend Trade Secrets Act, 18 U.S.C. §1836 et seq.; (v)
 25 violation of the Copyright Act, 17 U.S.C. § 1201(a)(1)(A); (vi) misappropriation of trade secrets
 26 arising under the Nevada Uniform Trade Secrets Act, N.R.S. Chapter 600A; (vii) violation of the
 27 Illinois Trade Secrets Act, 765 ILCS 1065/1 et seq.; (viii) unfair competition under the Nevada
 Deceptive Trade Practices Act, NRS Chapter 598; (ix) unfair competition under the Illinois
 Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1 et seq.; (x) breach of
 contract; (xi) tortious interference with prospective economic relations; and (xii) conversion.
 (Bleiman Decl., ¶3).

ultimately entered."). The applicable state law in this instance is found in Sections 31.010-31.230 of the Nevada Revised Statutes, which prescribes that a plaintiff:

... may apply to the court for an order directing the clerk to issue a writ of attachment and thereby cause the property of the defendant to be attached as security for the satisfaction of any judgment that may be recovered, unless the defendant gives security to pay such judgment as provided in this chapter.

N.R.S. §31.010(1). *See also Coombs v. Heers*, 366 F. Supp. 851, 853 (D. Nev. 1973).

More specifically, N.R.S. §31.013 provides that the Court may, after notice and hearing, order the clerk to issue a writ of attachment in any "case where the court finds that extraordinary circumstances exist which will make it improbable for the plaintiff to reach the property of the defendant by execution after the judgment has been entered." N.R.S. §31.013(3).

B. Issuance of a Writ of Attachment is Warranted Based on Extraordinary Circumstances

Extraordinary circumstances exist in the present case that make it improbable for HPT to reach the property of Defendant Cannata post-judgment. Given Defendant Cannata's past conduct in willfully deceiving HPT and transferring HPT's property in violation of agreements, as well as his deteriorated medical condition (as represented to this Court), there is a high degree of uncertainty regarding the custody of and activity pertaining to Cannata's assets. (*See Bleiman Declaration*, ¶5; Dkts. 72-73). It seems improbable that Defendant Cannata is currently able to control and direct his assets; thus, it is more likely than not that one or more third party individuals are managing Defendant Cannata's affairs, including his real and personal property. Plaintiff HPT has no way of knowing (1) what occurred with Cannata's assets prior to his medical event; (2) who or what entity is currently controlling the assets that will potentially satisfy a judgment; or (3) what is being done, if anything, to protect these assets from being dissipated or fraudulently transferred. For this reason, Plaintiff HPT seeks the attachment of \$6.8 million along with two (2) real properties in this state (*Bleiman Declaration*, ¶6) to be preserved for the satisfaction of any judgment that may be recovered. *See* N.R.S. §31.010.

1 **IV. CONCLUSION**

2 WHEREFORE, HP TUNERS, LLC, respectfully prays that this Court grant Plaintiff's
3 Motion for a Prejudgment Writ of Attachment against Defendant, KENNETH CANNATA, order
4 the clerk of court issue a writ of attachment in accordance with N.R.S. §31.013, and for any other
5 relief which this Honorable Court deems necessary and appropriate.

6 Dated this 1st day of December, 2020.

7 Respectfully submitted,

8 /s/ Andrew P. Bleiman

9 Attorneys for HP Tuners, LLC

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18 Attorneys for Plaintiff HP Tuners, LLC
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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b), I certify under penalty of perjury that I am an employee of LEE HIGH, LTD., 448 Ridge Street, Reno, Nevada 89501, and that on December 1, 2020, I served the PLAINTIFF'S MOTION FOR PREJUDGMENT WRIT OF ATTACHMENT via the Court's Notice of Electronic Filing to all those persons listed on the United States District Court CM/ECF Confirmation Sheet.

DATED this 1st day of December, 2020.

/s/ Elizabeth Dendary, CP
ELIZABETH DENDARY, CP
Certified Paralegal